

- License Agreement Offer B

- October 30, 2003 License Agreement was offered by a top producer of bags both for retail and advertising specialty sales. The company was founded in the 50's and has a 50,000+ square foot facility in China and US headquarters is over 150,000 square foot with over 400 employees world-wide.

EXCLUSIVE LICENSING, DISTRIBUTION AND MANUFACTURING AGREEMENT

This Exclusive Licensing, Distribution and Manufacturing Agreement (this "Agreement") is made and entered into by Kenneth B. Albritton and Gearmax, Inc, Virginia corporation with their offices at 11227 Mayer Run Drive, Ashland, VA 23005 (collective the "Licensor") and [REDACTED]

1 RECITALS

- 1.1 The Licensor has the trademarks and patents either issued or pending listed on Exhibit A hereto (the "Intellectual Property").
- 1.2 The Licensor wishes to license the Intellectual Property and any future patents, copyrights or trademarks of the Licensor or any modifications to or improvements on any of the Intellectual property or any future patents, copyrights or trademarks (the "Licensed Property") to the Licensee.
- 1.3 The Licensee wishes to enter into this Agreement in order to obtain the exclusive license to market any and all products arising from or based upon the Licensed Property (the "Product) to the Advertising Specialty Industries and shared sales rights for retails sales in the United States, the European Union, all other countries of Europe, all of continental Asia, Australia, New Zealand, all Pacific Islands and Japan ("Licensed Areas") in accordance with the terms and conditions set forth in this Agreement until the Licensee has paid \$7,000 in royalties for 3 consecutive months. After that date the licensee will assume full responsibility for all retail sales and Advertising Specialty Industry sales. Once the Licensee assumes full sales responsibilities for all sales, existing accounts opened and sold by the Licensor will be handled as existing accounts of the Licensor and a commission of 5% will be paid on sales to these accounts as well as royalties.
- 1.4 The Licensor wishes to enter into an exclusive manufacturing arrangement with the Licensee by which the Licensee shall produce all of the products arising from or related to the Licensed Property for the prices set forth on Schedule 1 hereto and upon the terms set forth in this Agreement (the "Exclusive Manufacturing Rights).
- 1.5 The Licensee shall agree to provide the support of the products produced from or marketed under the Licensed Property as provided in this Agreement and to pay royalties to the Licensor as provided in this Agreement.
- 1.6 Licensee has agreed to actively sell, promote, include in the next available catalog, display at shows, and inventory for ASI sales. For Sales at retail (either direct to retailers or through other manufacturers) the Licensee agrees to actively sell and promote the products for sales through these retail channels and/or manufacturers. The Licensee agrees to outline a plan for the sales approach to potential clients and to update the Licensor as to the results of these sales efforts. This outline is Addendum A.

1.7 In consideration of the forgoing and for other good and valuable consideration, the parties hereto have agreed to enter into and be bound by this Agreement.

2 LICENSED PROPERTY

2.1 Licensor represents and warrants that it is the sole and exclusive owner of patent application 0020074199 and that it is diligently pursuing the issuance of the patent for the inventions and innovations set forth in that patent application (the "Patent").

2.2 Licensor further represents and warrants that it has been issued a Trade mark for the Gearmax Trademark by the United States Patent and Trademark office as registration number _76/218478 on _Gearmax_ ("Gearmax Trademark").

2.3 Licensor further represents and warrants that it has applied for a trade mark with the United States Patent and Trademark Office for the trademark on Baby gear as set forth on Exhibit C hereto on June 18, 2003 ("Babymax Trademark").

2.4 Licensor further represents that the Patent, the Gearmax Trademark and the Babymax Trademark are the only patents or trademarks which the Licensor has applied for or been granted pertaining to bags and backpacks and make up all of the Intellectual Property.

2.5 The Licensor hereby grants to the Licensee full and exclusive license and authority to produce and market any Product arising from or bearing any trademark making up the Licensed Property, together with any and all improvements thereto developed by Licensor in the future in the Licensed Areas.

2.6 Licensor agrees to cooperate with Licensee such that Licensee may enjoy to the fullest extent the rights conveyed hereunder. In furtherance thereof, Licensor shall duly pursue the prosecution of all patents and trademarks included in or related to the Licensed Property.

2.7 Licensor warrants and represents that a) it has not entered into any assignment, contract, or understanding in conflict herewith; b) it has at no time filed, or caused to be filed, applications for patents, or obtained in its name, or caused to be obtained in the name of others, any patents or trademarks in the United States or elsewhere based on or covering the Licensed Property, except as set forth in Sections 2.1, 2.2 and 2.3; c) none of the Licensed Property infringes on any trademark or patent or pending patent issued or filed by any party other than the Licensor and to best of the knowledge of the Licensor the Licensed Property is not derived from any copyright, trademark or invention of any person other than Licensor.

2.8 Licensor represents and warrants that it has the full right and power to grant the license set forth in this Agreement and has sole and absolute title to the Licensed Property free of all liens or encumbrances.

3 EXCLUSIVE RIGHT TO MANUFACTURE

3.1 Licensor grants to Licensee and any of its subsidiaries an exclusive license to manufacture the Products. Licensor shall not directly or indirectly manufacturer the Product itself or through any third party prior to the Termination Date hereof.

3.2 In consideration of such exclusive right to manufacture the Product the Licensee agrees to supply the Product to the Licensor for the prices set forth on Schedule 1 for a period of one year at which time such price shall be adjusted to reflect the actual costs incurred by the Licensee to produce the Product with an appropriate profit margin. Schedule 1 will be completed when final product design and quotes are secured.

3.3 All Product purchased by the Licensor shall be sold on net thirty (30) day terms. The Licensee shall provide packing materials and shall ship the Product as directed by the Licensor. The cost of packing and shipping shall be invoiced to the Licensor for all items purchased by the Licensor from the Licensee and shall be payable on net thirty (30) day terms.

3.4 The Licensor shall be available to the Licensee to consult, at no cost to the Licensee, in the design, marketing, promotion and production of the Product, at such times and at such place as the Licensee may reasonably request.

3.5 Licensee warrants to Licensor that Product furnished will be new, free from material defects in design (except to the extent designed by Licensor, material and workmanship, and will conform to the standards applicable to other products manufactured by the Licensee; provided that any warranty hereunder shall not extend beyond 360 days from the shipment date.

3.6 The Product sold to Licensor shall be free of any security interest or any other lien.

3.7 Licensee shall commit to provide the following:
Ten (10) Samples of each style of the Product for the Licensor

3.8 Licensor shall not sell Product purchased from Licensee in any of the Licensed Areas.

3.9 Licensee may use the Licensed Property trademarks on all of the Products and any identifying tags, packaging, promotional and distribution material related to the Product and may in addition use any of Licensees own trademarks on the Product.

3.10 Licensor may return to Licensee for repair or any Product which does not conform to the limited warranty provided in this Section 3 with customary freight expenses to be paid by

Licensee for such return. The remedies set forth in this Section 3.10 are Licensor's sole and exclusive remedies for breach of the warranties set forth in this Section 3 and Licensee's sole and exclusive obligation regarding any breach of such warranties.

3.11 EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 3, LICENSEE MAKES NO WARRANTIES REGARDING THE PRODUCT AND THE LICENSEE HEREBY DISCLAIMS ANY AND ALL SUCH OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, WHICH ARE ALL HEREBY EXCLUDED.

4 EXCLUSIVE RIGHT TO SELL TO LICENSED AREAS

4.1 The Licensee shall have the exclusive right to sell the Product and use the Licensed Property in the Licensed Areas; this is in addition to the rights granted under Section 3 as to the exclusive right to manufacturer the Product.

4.2 Licensor agrees not to sell, either directly or through any other person, any Product or use the Licensed Property in conjunction with any sales or marketing in the Licensed Areas during the terms of the Agreement and as provided in Section 10.4 of this Agreement.

4.3 Licensor may offer any warranty which it deems reasonable to its customers; provided that the Licensee shall not be bound by any such warranty and the Licensor acknowledges that the only warranty give to Licensor by Licensee is set forth in Section 3 hereof.

5 PERMITTED SUBLICENSES

5.1 With the prior consent of the Licensor, which will not be unreasonably withheld, the Licensee may sublicense the Licensed Property to third parties for any purpose consistent with the Licensed Property in the Licensed Areas ("Permitted Sublicensee").

5.2 Each Permitted Sublicensee shall agree as a condition of its sublicense to pay royalties mutually agreed to among the Licensor, the Licensee and Permitted Sublicensee.

6 INSURANCE

6.1 The Licensee shall maintain such product liability insurance as is common for similar manufacturers of similar Products.

6.2 The Licensee shall name the Licensor as an additional insured under any such product liability insurance during the terms of this Agreement.

7 ROYALTY PAYMENTS

- 7.1 The Licensee shall pay to the Licensor, as the exclusive payment for the license granted under this Agreement to the Licensed Property, a royalty fee equal to 2.00% of the wholesale price of any Product sold by the Licensee. That royalty shall rise to 4.00% of the wholesale price of any Product sold by the Licensee, once the Patent has been issued by the United States Patent and Trademark Office and no appeal from the decision of the United States Patent and Trademark Office is outstanding.
- 7.2 In no event shall the amount paid by the Licensee to the Licensor be less than \$0.25 for every item of the Product sold prior to the Patent being issued and \$0.50 for every item of the Product sold after the Patent has been issued by the United States Patent and Trademark Office and no appeal from the decision of the United States Patent and Trademark Office is outstanding. These royalty rates are based on the current Gearmax items. In the future new item development will require specific agreements or the royalty rate will revert to the basic royalty percentages outlined in this agreement.
- 7.3 The Licensee shall not pay any royalty upon any Product sold to or through the Licensor.

8 ACCOUNTING.

- 8.1 Licensee shall pay all royalties and other payments due hereunder in US dollars within thirty (30) days of the end of each fiscal quarter of the Licensee to the Licensor.
- 8.2 Licensor shall accept a late payment provided such payment includes all overdue royalties or other payments due.
- 8.3 Licensee shall deliver with each payment a written report certified by an officer of Licensee which shall contain the following information:
- (a) a description of each type of Product sold by the Licensee;
 - (b) the quantity sold or otherwise transferred during the accounting period of each type of Product;
 - (c) the sum of the wholesale price for the entire quantity of each type sold;
 - (d) the amount of royalties due for each type of Product calculated as a percentage of wholesale price and by quantity as provided in Section 7; and
 - (e) the aggregate amount of all royalties due.
- 8.4 Licensee shall keep records in accordance with generally accepted accounting principles and in sufficient detail to permit the determination of royalties due to Licensor. Such records shall include, but not be limited to, detailed records supporting the information provided under Section 8.3
- 8.5 Upon thirty (30) days written notice for an audit, Licensee shall permit auditors designated by Licensor necessary, to examine, during ordinary business hours, records and materials of Licensee for the purpose of verifying compliance with this Section 8 of this Agreement.

8.6 Each party shall pay the costs that it incurs in the course of the audit. However, in the event that the audit establishes underpayment greater than five percent (5%) of the royalties due, Licensee shall reimburse Licensor for the cost of the audit; provided, however, such reimbursement shall not exceed the amount of the underpayment.

9 TERM; TERMINATION

9.1 The license granted herein and the Exclusive Manufacturing rights granted herein shall remain in effect for a period of three (3) years from the Effective Date, unless earlier terminated under the provisions of this Agreement ("Termination Date") and shall automatically renew at the end of the initial term and at the end of each term thereafter for one (1) year unless terminated by Licensor under Section 9.3 of this Agreement or unless Licensee sends a notice of termination under Section 9.2 prior to the end of the then current term.

9.2 Licensee may terminate the license granted herein by giving notice in writing to Licensor no later than thirty (30) days prior to the Termination Date set forth in the notice. Any such termination shall be irrevocable.

9.3 Licensor shall have the right to terminate this Agreement, or the licenses granted hereunder, if (i) Licensee is more than 60 days in arrears in its payment obligations to Licensor, (ii) Licensee fails to perform under Section 3.7, (iii) Licensee fails to manufacture the Product as provided in Section 3 and (iv) provided that the Licensor shall give the Licensee prior written notice of any condition of termination set forth in this Section 9.3 (the "Termination Notice") and the Licensee shall have the right to cure such breach within sixty (60) days after mailing of the Termination Notice, which shall specify the nature of such breach. Such period to cure after any Termination Notice shall be extended if the breach is the subject of a good faith dispute between Licensor and Licensee.

10 EFFECT OF TERMINATION

10.1 After the Termination Date:

(a) Within ninety (90) days the Licensee shall cease manufacturing the Product, except to the extent necessary to fulfill any existing orders for the Product from customers of the Licensee or from the Licensor.

(b) Within thirty (30) days, the Licensor shall pay for any Product it has ordered from the Licensee and shall purchase at the wholesale price any other Product manufactured by the Licensee of any nature not sold by the Licensee.

(c) Except for Product manufactured under Section 10.1 (a), Licensee shall cease using any of the Licensed Property in any of its sale material, catalogues or literature.

(d) Licensee shall pay to the Licensor any royalties when due as provided in Section 7, but may withhold from any such payment the amount due from the Licensor under Section 10.1 (b) until paid.

10.2 Except as otherwise provided in Section 10.1 and 10.4 of this Agreement, the parties hereto shall have no further liability to each other of any kind or nature on or after the Termination Date.

10.3 Nothing contained in this Agreement shall give the Licensor any right to any patent, trademark, tradename, copyright or any other invention or innovation by the Licensee all of which are waived by the Licensee. Licensee shall not be required to supply any know how, tools, molds or design elements it has developed for the Product to the Licensor.

10.4 The parties hereto agree not to solicit each others employees during the terms of this Agreement and for two years after the date of Termination hereof and the Licensor agrees not to directly or indirectly market or distribute the Product to or use the Licensed Property with any customer of the Licensee in the Licensed Areas for a period of one (1) year from the Termination Date. This will allow the Licensee appropriate time to move all inventory, in transit inventory and work in process inventory.

11 INTELLECTUAL PROPERTY RIGHTS. The Parties acknowledge that, except as expressly set forth in this Agreement, this Agreement shall not be deemed to have granted: (i) Licensee any rights in or to Licensor's intellectual property which is not part of the Licensed Property or (ii) Licensor any rights in or to Licensee's intellectual property of any kind or nature whether included in or related to the Product. All rights not expressly granted herein are reserved.

12 RIGHT OF FIRST REFUSAL. The Licensor recognizes that the Licensee will expend a great deal of resources under this Agreement and in consideration thereof the Licensor shall not sell any of the Licensed Property or any interest in Licensor's business without first offering to sell such Licensed Property or business interest to the Licensee. The Licensor agrees that if the Licensee does not exercise its right hereunder to purchase the Licensed Property or the business interest in the Licensor, the Licensor will not sell such Licensed Property or business interest in the Licensor for less than the price offered to the Licensee unless it again offers such Licensed Property or business interest at the reduced price to the Licensee.

13 LICENSEE'S AND LICENSOR'S INFORMATION AND NON-DISCLOSURE AGREEMENT.

13.1 The Parties, for their mutual benefit, desire to disclose to one another certain specifications, designs, plans, drawings, software, data, prototypes or other business, technical, and/or marketing plans and strategies, pricing information, customer

information or other business and technical information (hereinafter "INFORMATION"), which INFORMATION is proprietary to the disclosing Party.

13.2 INFORMATION disclosed pursuant to this Agreement shall be used only for the purpose of exploring, evaluating and implementing the relationship between the Parties as set forth in this Agreement.

13.3 Section 13 shall remain effective for the term of this Agreement and of a period of three (3) years after the Termination Date. This Agreement applies to INFORMATION disclosed by the Parties prior to and during the Term of this Agreement related to the Product, the Licensed Areas and the Licensed Property, including without limitation all customer lists, marketing material, promotional material, designs, techniques, written description or the like and such INFORMATION shall be subject to the confidentiality obligations set forth in this Section 13.

13.4 The receiving Party shall hold the INFORMATION in confidence, shall use the INFORMATION only for the purpose set forth in this Agreement shall reproduce the INFORMATION only to the extent necessary for the such purposes and shall not disclose the INFORMATION to any third party without the prior written approval of the other Party. The receiving Party may, however, disclose the INFORMATION to its employees, consultants and contractors (including, without limitation, its legal counsel and accountants) with a need to know; provided, that the receiving Party binds those employees, consultants and contractors to terms at least as restrictive as those stated herein, advises those employees, consultants and contractors of their confidentiality obligations, and indemnifies the disclosing Party for any breach of those obligations.

13.5 These restrictions on the use or disclosure of INFORMATION shall not apply to any INFORMATION:

- (a) which is independently developed by or for the receiving Party or its affiliated company; or
- (b) which is lawfully received free of restriction from another source; or
- (c) after it has become generally available to the public without breach of this Agreement by the receiving Party or its affiliated company; or
- (d) which at the time of disclosure to the receiving Party can be demonstrated to have been known to that Party or its affiliated company free of restriction; or
- (e) which the disclosing Party agrees in writing is free of such restrictions; or
- (g) which the receiving Party is required to disclose under applicable laws, rules and regulations, provided that the receiving Party shall first notify the disclosing Party of such required disclosure and afford the disclosing Party the opportunity to seek a protective order relating to such disclosure.

Notwithstanding the forgoing, nothing contained herein shall modify or waive the provisions of Section 10.4 of this Agreement.

13.6 Each Party shall protect the INFORMATION disclosed to it by the other Party with at least the same degree of care as it normally exercises to protect its own proprietary information of a similar nature.

14 DISPUTE RESOLUTION

14.1 Any and all disputes between the Licensor and Licensee regarding this Agreement, the obligations hereunder, the Product or the Licensed Property, or any other matter relating to or arising out of this Agreement, shall be resolved by the confidential arbitration process hereinafter described.

14.2 Arbitration shall be conducted in New York, New York.

14.3 Any arbitration pursuant to under this Section 14 shall be held before a panel of three (3) arbitrators who shall be selected from the rolls of the American Arbitration Association ("AAA") and shall be governed by the Commercial Arbitration Rules of the AAA in effect on the date a demand for arbitration is made by either party hereto.

14.4 The arbitrators (a) shall not have the power or authority to add to, alter, amend or modify the terms of this Agreement, (b) shall have no power to award attorney's fees (except as expressly provided below) or punitive or exemplary damages; (c) shall interpret and construe this Agreement in accordance with, and shall be bound by, applicable law as provided herein, and (d) shall render their decision or award no later than thirty (30) days after the final hearing and in all events within twelve (12) months after commencement of the arbitration.

14.5 Except as otherwise set forth herein, each party shall bear its own expenses for counsel and other out-of-pocket costs in connection with any resolution of a dispute, difference or controversy.

14.6 The arbitrators shall make their decision and/or award in accordance with and based upon all the provisions of this Agreement and applicable law, and judgment upon any decision or award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The fees and disbursements of the arbitrators shall be borne equally by the parties.

15 INFRINGEMENT.

15.1 Licensor agrees to indemnify, defend, and hold Licensee and its successors, officers, directors and employees harmless from any and all actions, causes of action, claims, demands, costs, liabilities, expenses and damages arising out of or in connection with any claim that the Licensed Property constitutes an infringement or misappropriation of

any confidential information, trade secret, patent, copyright, trademark, trade name, or other legal right of any third party.

- 15.2 Licensee may institute an action or suit against third parties for infringement of any Licensed Property and defend any action or suit brought by a third party which challenges or concerns the validity of Licensed Property and shall retain eighty percent (80%) of any award after the payment of all related fees and expenses, including legal fees, and shall give the balance to the Licensor. The Licensee may decline to commence any such action and shall request the Licensor to pursue such action. Licensor agrees to take such action, at its own expense, if the Licensee declines to take such action in order to protect and defend its patent rights and trademark rights which make up the Licensed Property so that the Licensee may continue to manufacture and market the Product and use the Licensed Property in the Licensed Areas. If Licensor does not pursue such action the Licensee may terminate this Agreement as provided in Section 9 of this Agreement.
- 15.3 If any portion of the Licensed Property in any action is held to constitute an infringement and its use is enjoined, Licensor shall immediately and at its expense use commercially reasonable efforts to:
- (a) procure for Licensee the right to continue use, sale, and marketing of the Licensed Property and the Product; or
 - (b) replace or modify the Licensed Property with such patent and/or trademarks that is non-infringing, meets the specifications and other requirements of this Agreement, and reasonably serves as a replacement the Licensed Property.

16 MISCELLANEOUS

- 16.1 Notices. Any notice required to be mail hereunder shall be in writing and shall be deemed received (i) three (3) days after it is mailed postage prepaid to the address set forth above for each party or such other address which such party has provided to the other party hereto in writing, (ii) the next day if sent freight prepaid by any nationally recognized overnight delivery service to the addresses as provided in (i) and (iii) when received if delivered by hand to an officer of the party who is receiving the notice.
- 16.2 Licensee shall not assign this Agreement, assign or sublicense any rights under it (other than to Permitted Sublicensees), nor delegate any of its obligations. Any attempt to do so shall be void. Licensor shall not assign this Agreement nor delegate any of its obligations hereunder to any other person. Any attempt to do so shall be void.
- 16.3 Both parties agree not to use or refer to the terms of this Agreement in any promotional activity.

16.4 This Agreement shall not be binding upon the parties until it has been signed herein below by or on behalf of each party. No amendment or modification hereof shall be valid or binding upon the parties unless made in writing and signed as aforesaid.

16.5 If any section of this Agreement is found by competent authority to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such section in every other respect and the remainder of this Agreement shall continue in effect so long as the Agreement still expresses the intent of the parties. However, if the intent of the parties cannot be preserved, this Agreement shall be either renegotiated or terminated.

16.6 This Agreement shall be construed, and the legal relations between the parties hereto shall be determined, in accordance with the law of the Commonwealth of Virginia, as such law applies to contracts signed and fully performed in such State.

16.7 The headings of sections are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have executed the day and date first written above.

LICENSOR

Kenneth Buck Albritton

Gearmax, Inc.

By: _____

LICENSEE

By _____